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October 28, 2022

VIA ECF

Hon. Analisa Torres
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
Courtroom 15D
New York, NY 10007

**Re: Ultra International Music Publishing, LLC v. West, et al., Case No. 22 Civ. 5560
(AT)**

Dear Judge Torres:

The parties to the above-referenced matter write jointly to provide the Court with the information requested in its Initial Pretrial Scheduling Order (Doc. No. 8). The parties' respective positions are included below.

1. Brief Description Of The Case

a. Plaintiff's Position

Plaintiff Ultra International Music Publishing, LLC ("UIMP" or "Plaintiff") asserts two causes of action against Defendants Kanye West ("Ye"), Alex Klein ("Klein"), and Kano Computing Limited ("Kano") (collectively, "Defendants"), for direct copyright infringement, and for vicarious and/or contributory copyright infringement, pursuant to the Copyright Act, 17 U.S.C. §§ 106 and 501.

UIMP owns, controls, and administers (in whole or in part) the copyright to a composition titled "Move Your Body," as originally written and performed by Marshall Jefferson in 1986. Mr. Jefferson is often referred to as the "Father of House Music," and "Move Your Body" has itself been acclaimed as "The House Music Anthem."

Defendants, in early 2022, released a new album by West titled *Donda 2*. *Donda 2* was released exclusively via Defendants' proprietary streaming device, the Stem Player (and also on its related website, www.stemplayer.com). One of the songs included on the *Donda 2* album is titled "Flowers." "Flowers," in turn, samples, without authorization, multiple elements of "Move Your Body," and does so more than 20 times throughout the course of "Flowers." "Flowers" was also specifically used to promote sales of the Stem Player and *Donda 2*, both on social media and at a live listening party in Miami. The Stem Player also allows users to isolate and exploit so-called "stems" from songs like "Flowers"; one of those "stems" that users can isolate is the unauthorized sample of "Move Your Body."



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According to Defendants, the Stem Player was a great success, selling 11,000 units within 24 hours of releasing *Donda 2*, generating \$2.2 million in revenue in just one day. Defendants did not obtain any license or authorization to exploit the “Move Your Body” composition in connection with *Donda 2* or the Stem Player. This was despite West’s familiarity with copyright law, based on his prolific career as an artist and producer.

As a result of Defendants’ willful infringement, UIMP is entitled to either statutory damages in an amount up to \$150,000 (17 U.S.C. § 504(c)), or to its actual damages and Defendants’ profits attributable to the infringement. UIMP also intends to seek an award of its attorneys’ fees and costs pursuant to 17 U.S.C. § 505.

b. Defendants’ Position

Defendants deny the allegations of the Complaint and further deny that UIMP suffered any damages or is entitled to any relief as a result of the alleged infringement.

2. Contemplated Motions

a. Plaintiff’s Position

UIMP anticipates filing a Motion for Partial Summary Judgment on the issue liability. UIMP anticipates filing this motion by the deadline for dispositive motions, and after sufficient discovery has been completed.

b. Defendants’ Position

Defendants anticipate filing a Motion for Partial Summary Judgment on the issue of the appropriate scope, if any, of damages. Defendants anticipate filing this motion by the deadline for dispositive motions.

Defendant Alex Klein anticipates filing a motion to dismiss the claims against him in his individual capacity on or before December 13, 2022, his current response deadline (*see* Dkt. No. 31).

Due to recent events and Ye’s counsel’s inability to reach Ye or his representatives, Ye’s counsel intends to seek to withdraw as counsel.

3. Prospect For Settlement

The parties are presently engaged in informal talks regarding a potential resolution of this dispute, and discussing voluntarily providing information to facilitate those talks. To the extent that these initial talks are unsuccessful, the parties anticipate that it may be possible that the



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parties would be able to reach a resolution with the assistance of a mediator, after sufficient discovery has taken place.

Sincerely,

/s/ Bradley J. Mullins

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BJM/kl